HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.18197 of 2007

Dated:30.08.2007

Between:

Gottumukkala Dilip Kumar Raju.

…Petitioner.

and

The Tahasildar and others.

…Respondents.

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.18197 of 2007

ORDER:

This Writ Petition is filed impeaching the proceedings/orders in Reference Nos.323-24/2007 (B) and 323-32/2007 (B), dated 16.07.2007, whereby and whereunder in purported exercise of power under Section 4 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 ('the Act', for brevity), the first respondent, namely, Tahasildar, Kamavarapukota Mandal in West Godavari District, ordered resumption of the land from the petitioner. The petitioner seeks invalidation of the said orders, *inter alia*, on the ground that they are one without jurisdiction.

The case of the petitioner is as follows. The petitioner was allegedly assigned land admeasuring Acs.5.18 in survey Nos.573/1 and 572/1, by D-Form patta, dated 11.12.1990. The petitioner took possession of the same and since then cultivating the same. Nonetheless, the first respondent issued a show cause notice to the petitioner calling upon him to submit explanation as to why he should not be evicted from the land. In the notice, it was alleged that the land in survey No.573/1 was originally assigned to Ganta Pothuraju, son of Venkayya, but on verification, the petitioner was found to be in occupation of the land. A similar notice of even date was also issued

to the effect that when the land in survey No.572/1 admeasuring Acs.2.42 was originally assigned to Katari Rama Swamy, son of Veera Swamy, the petitioner was found to be in possession of the land. After receiving the notices, the petitioner submitted explanation, *inter alia*, contending that he himself is an original assignee and that the Tahasildar has no jurisdiction to initiate action under the provisions of the Act. The Tahasildar passed two orders impugned in the Writ Petition.

Learned Counsel for the petitioner submits that the petitioner submitted explanation to the Tahasildar, but the latter proceeded as if no explanation was given. Secondly, he submits that the petitioner himself is the assignee, who was granted D-Form patta on 11.12.1990, and therefore, the impugned orders are erroneous. **Per contra**, learned Assistant Government Pleader for Revenue (Assignment) submits that the petitioner has an effective alternative remedy by way of an appeal under Section 4-A of the Act.

There cannot be any doubt that if the assignee has not contravened any provisions of Section 3 of the Act or when the assignee himself is a landless poor person entitled to the benefit under Section 3(5) of the Act, without conducting proper enquiry, the first respondent cannot resume possession and issue show cause notice as well as an order under Section 4 of the Act. But the questions, whether the petitioner himself is the assignee and whether explanation submitted by the petitioner to the show cause notice is considered, are matters, which can, in the first instance, be looked into by the appellate authority. The Counsel for the petitioner apprehends that even before expiry of 90 days, prescribed for filing appeal, the subordinates of the first respondent are taking steps to evict the petitioner. Keeping this in view, this Court is of considered opinion that there should be *status quo* for a period of two weeks. The petitioner is given two weeks time from the date of receipt of a copy of this order to file appeal before the Revenue Divisional Officer concerned and obtain appropriate orders. This Court also observes that the appellate authority may dispose of the matter as expeditiously as possible.

The Writ Petition, with the above observations, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

30.08.2007

Note:Furnish C.C. by 03.09.2007.

(B/o)

GJ